

TO: THE SUPREME COURT OF THE STATE OF MICHIGAN
FROM: JUDGE NANCY C. FRANCIS,
WASHTENAW COUNTY FAMILY DIVISION
DATE: OCTOBER 31, 2005
RE: PROPOSED ADMINISTRATIVE ORDER REGARDING
PRIVACY POLICY AND ACCESS TO COURT
RECORDS

The Family Division of the Washtenaw County Circuit Court has been working on the issue of protecting Social Security, Credit Card and Financial Account Identifying Number for almost three years. I certainly appreciate and applaud the proposed Supreme Court Administrative Order that would protect the privacy of the Social Security Number (SSN) in court files.

In the Nineteen-thirties, President Franklin Roosevelt, the creator of the Social Security System, promised a very concerned nation that the Social Security number would never be a universal identifier. I appreciate the efforts of the Michigan Courts to fulfill that pledge.

I have not been appointed by the Washtenaw County Family Division to make these comments. After reading the proposed Order I took it upon myself to ask that you consider the following items.

I. ISSUE: Deletion of SSN on court file copies of Duplicate Forms
_ There are some SCAO duplicate forms that might require (or be helped by) an SSN but it is not needed on the public record copies of the form and wording of the proposed Order permits an interpretation that because the SSN is permissible on one copy of the packet it can be left on the public copies of the form.

A good example is the Personal Protection Order (PPO) form. The SS#, if known, is very helpful and, if known, should be put on the LEIN copy of the non-carbonized duplicated form of the PPO. It does not hurt to have it on Petitioner's and Respondent's copies of the PPO but it is absolutely unnecessary to have it on the original and service return copies that are the only ones put in the public court file.

Here, we have been obliterating the number except on the LEIN copy

REQUEST: Until the State can devise a procedure for excluding an item in selected copies of a non-carbonized form, I am asking that the Policy direct a procedure and assign responsibility for deleting the SSN from duplicates in which it is not necessary to include the number.

II. ISSUE: Prohibition of Partial Social Security Number - We have received documents for court filing that do not require the Number but indicate it by a series of "Xs" followed by the last four digits of the Social Security Number.

REQUEST: The Policy should prohibit the use of any part of the Social Security Number in a public court document.

III. ISSUE: QDRO/EDRO Forms – Employer's Benefit Offices need to have Social Security Numbers to effectuate these transfers however, as you know neither federal nor state law requires the inclusion of any Social Security Number in a QDRO or EDRO. The sample orders created by employers indicate that the numbers should be entered into the form and lawyers and litigants faithfully follow these forms.

Our local attorneys and QDRO/EDRO preparers have become quite cooperative in leaving out the numbers in the public record order and indicating that it is attached to the copy of the order delivered to the Plan Administrator.

Even though the Supreme Court may not want to "itemize" in this Administrative Order, this is an area of such frequent and unnecessary publication of private information that appears to be required but is not that the Court should note it specifically in the Order to dispel the belief, easily and statewide, that it is required information.

REQUEST: The Order should not leave this to interpretation by the various counties; a parenthetical allusion to QDROs and EDROs as orders NOT requiring SSNs in the public record copy should be included in the Order.

IV. ISSUE: Continuation/Expansion of the Policy - The courts' public records are filled with other identifying personal information such as credit card account and financial account numbers. While it might be necessary to state those in some civil or criminal cases the courts can eliminate a lot (and maybe all) of this public disclosure.

I have to mention that when parties have learned of our stance on confidential information and our process for eliminating it even from already filed documents they have been grateful and very eager to make use of it and have demonstrated the public's desire for privacy.

REQUEST: That the Supreme Court continue this work to develop an additional Administrative Order for the elimination of other personal identifiers in public court documents.

Thank you for your attention to my comments.

cc: Hon. John N. Kirkendall, Presiding Judge Family Division
Hon. Archie Brown
Hon. Timothy Connors